

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-070848

01/14/2014

HONORABLE MICHAEL W. KEMP

CLERK OF THE COURT

J. Bailey

Deputy

IN RE THE MATTER OF
BRANDON KYLE BUSHONG

BRANDON KYLE BUSHONG
P O BOX 497
WITTMANN AZ 85361

AND

CASSANDRA LEE BUSHONG

CASSANDRA LEE BUSHONG
11805 N 114TH AVE
YOUNGTOWN AZ 85363

CONCILIATION SERVICES-NW
LAB EXPRESS INC - PHOENIX
TASC - PHOENIX

HEARING

Northwest Facility, Courtroom 121

9:59 a.m. This is the time set for an Emergency Hearing regarding Petitioner's Motion for Post Decree Temporary Order without Notice for Modification of Legal Decision Making / Custody filed December 30, 2013 (previously denied without notice). Petitioner/Father Brandon Bushong is present on his own behalf. Respondent/Mother Cassandra Bushong is present on her own behalf.

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A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Brandon Bushong and Cassandra Bushong are sworn.

Discussion is held regarding status of the case and pending issues.

IT IS ORDERED that Father shall have sole legal decision making with regard to the parties' minor children, Ciera Bushong, born on July 9, 2000 and Austin Bushong, born on May 8, 2002, on a temporary basis, until further order of the Court.

IT IS FURTHER ORDERED that Mother shall have parenting time every other weekend from Friday at 5:00 p.m. until Sunday at 5:00 p.m. Mother's first weekend shall begin on January 24, 2013. These orders are entered on a temporary basis, until further order of the Court.

IT IS FURTHER ORDERED that Father and Mother shall undergo random drug testing on the following basis:

A. Agency. Father's and Mother's random drug testing shall be conducted at a location of TASC, Inc., the main office of which is at 2234 North 7th Street, Phoenix, Arizona, 602-254-7328. Other locations are listed on the TASC referral form and may be viewed at www.tascaz.org.

B. First Test. Father and Mother shall report to TASC prior to 5:00 p.m. on January 17, 2014 to complete a hair follicle test. Beginning the week of January 20, 2014, Father and Mother shall participate in random urinalysis testing once per week through TASC.

C. Scope. Father and Mother shall undergo a full spectrum substance and drug test (Screen "A") for each urinalysis test ordered herein.

D. Cooperation. Father and Mother shall cooperate fully as reasonably required by the testing agency to comply with this Order, including:

1. Father and Mother shall provide such samples as required by TASC.
2. Father and Mother shall timely report for testing as directed by TASC.
3. Father and Mother shall present photo identification to TASC at the time of each test.

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4. Father and Mother shall sign and deliver such forms of consent, authorization and release of test results as required by TASC to comply with this order.

E. Cost. Father and Mother shall pay for the cost of their own testing (\$25.00 per urinalysis test; \$65.00 per hair follicle test) by money order or cashier's check at the time of testing.

F. Frequency & Duration. Father and Mother shall provide at least five (5) random urinalysis tests and one hair follicle test. If all tests are negative after five (5) weeks, that party may stop testing. In order for a urinalysis test to be considered negative, it must be taken as randomly scheduled by TASC, must not be positive for any substance, and must not be diluted. If either party provides a positive urinalysis test or positive hair follicle test, that party shall continue random urinalysis testing once per week through TASC until further order of the Court.

G. Positive/Diluted/Missed Test. All parties are advised that the failure, neglect or refusal to participate in testing, or providing a diluted test sample at the time of testing, may be considered an admission by the party that the testing, if properly conducted, would have revealed the use of the substance(s) tested for, which finding is contrary to the best interest of a child. Certain prescription medications may cause a positive drug test result. Parties who are required to drug test are expected to provide proof to the court of prescriptions and documentation from health care providers regarding the lawful possession and use of those medications.

H. Reporting. The parties are hereby advised that test results ARE NOT confidential and will be filed in the Court file upon receipt by the Court. The results of each test shall be reported directly to counsel for both parties, or directly to the parties at the addresses provided by the parties to the testing agency, if unrepresented by counsel. The testing agency shall also provide this Court with a copy of each test result and a Monthly Drug Test Summary Report.

IT IS FURTHER ORDERED that each party shall ensure that a "GCMS" analysis is conducted by TASC for any positive result that the party believes is due to a prescription medication. The party will need to contact TASC after receiving the testing results to arrange for further analysis.

LET THE RECORD REFLECT that both parties received a TASC referral form in open court.

IT IS FURTHER ORDERED if TASC staff determines that Father's hair is of insufficient length for a hair follicle test through TASC, then Father shall report to Lab Express for a body hair follicle test prior to 5:00 p.m. on January 17, 2014.

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LET THE RECORD REFLECT that Father is provided with the appropriate information in open court.

IT IS FURTHER ORDERED that Father shall pay for all testing costs at the time of testing. Father will need to contact Lab Express to determine the cost of testing and the methods of payment that are accepted.

IT IS FURTHER ORDERED that Father shall provide a copy of his testing results to this Court and to the other party immediately upon receipt thereof.

IT IS FURTHER ORDERED directing Lab Express to mail a copy of Father's testing results to this Division at the following address:

Honorable Michael Kemp
Northwest Regional Court Center
14264 W. Tierra Buena Lane, Suite A
Surprise, Arizona 85374.

IT IS FURTHER ORDERED referring the matter to Conciliation Services for a Family Court Conciliator to interview minor children Ciera Bushong, born July 9, 2000 and Austin Bushong, born May 8, 2002.

IT IS FURTHER ORDERED setting the *non-confidential* **Child Interview on February 10, 2014 at 1:30 p.m.** in Conciliation Services at the Maricopa County Superior Court, Northwest Regional Court Center, 14264 W. Tierra Buena Lane, Surprise, Arizona 85374, Phone: 602-372-0492.

IT IS FURTHER ORDERED that the *non-confidential* Child Interview shall be conducted on the following basis:

1. Scope. The Court anticipates that the Conciliator may address statutory issues set forth in A.R.S. § 25-403(A)(1),(A)(2), (A)(3), (A)(4), and (A)(5) and all other matters deemed relevant by the Conciliator.

2. The Court requests that the Conciliator consider addressing the following matters in the Interview, in addition to the statutory issues: The children shall be asked by the Conciliator if either parent discussed the interview with them and/or gave them any instructions as to what to say to the Conciliator.

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IT IS FURTHER ORDERED that the parent that has the children on that date shall be responsible for transporting the minor children to the above scheduled Child Interview.

IT IS FURTHER ORDERED as follows:

1. Neither parent shall discuss the interview with the children other than telling them that they will be asked questions by court personnel.
2. There shall be absolutely no coaching of the children by either parent.
3. Neither parent shall discuss the child interview report with the children.
4. The parties shall comply with all instruction given by Conciliation Services.

WARNING: You will have to pay a \$100 fee if you do not bring the minor children to the Child Interview as ordered. If you need to reschedule, the party responsible for bringing the children to the interview must notify Conciliation Services and receive permission to reschedule at least three full court days before the session.

NOTICE: In accordance with the Arizona Rules of Family Law Procedures, specifically Rule 68, subsection B, each party has the right to request that reasonable procedures be in place at Mediation to protect a victim of domestic violence. Please call Conciliation Services to request arrangements. If you wish to request a Waiver of Attendance, you must file your written request with the assigned judicial officer on the case.

IT IS FURTHER ORDERED setting an **Evidentiary Hearing on March 25, 2014 at 2:00 p.m.** (1 hour allotted) before the Honorable Michael W. Kemp at the Northwest Regional Court Center, Courtroom 121, 14264 W. Tierra Buena Lane, Surprise, Arizona 85374, Telephone: (602) 372-0608.

The Evidentiary Hearing will address Petitioner's Petition to Modify Legal Decision Making (Custody), Parenting Time and Child Support filed December 23, 2013.

IT IS FURTHER ORDERED that each party will be allowed approximately one-half of the time allotted to present his/her case. The Court will likely reserve a portion of the time allotted to issue its ruling. The time allotted will not be extended absent a timely filed motion granted by the Court.

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IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a **Joint Pre-Trial Statement** pursuant to Rule 76, A.R.F.L.P., no later than five (5) days prior to the hearing. If the parties are unable to prepare the Pre-Trial Statement together, each party shall file a separate Pre-Trial Statement.

IT IS FURTHER ORDERED that the Joint Pre-Trial Statement shall include a current **Parent's Worksheet for Child Support Amount** completed by each party pursuant to the Statewide Child Support Guidelines and a specific proposal for legal decision-making and parenting time by each party, if applicable.

IT IS FURTHER ORDERED that each party shall file a current **Affidavit of Financial Information** and present a copy to this Division no later than five (5) days prior to the Trial. Each party shall ensure that the opposing party receives a copy of the Affidavit of Financial Information in accordance with the discovery and disclosure deadlines set forth herein.

The Joint Pre-Trial Statement, Parent's Worksheet for Child Support Amount and Affidavit of Financial Information forms may be found at the following website:

www.superiorcourt.maricopa.gov/superiorcourt/self-servicecenter/forms/familycourt

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

1. All depositions and discovery contemplated by Rules 49 through 65, A.R.F.L.P., shall be completed and any motions regarding discovery shall be filed no later than 5:00 p.m. on March 3, 2014.
2. Both parties shall exchange updated disclosure statements required by Rules 49 and 50, A.R.F.L.P., including an exchange of all relevant information, documents and exhibits no later than 5:00 p.m. on March 10, 2014.
3. Counsel and/or both parties shall personally meet, face to face (unless there is an Order of Protection in place), at least ten (10) days prior to Evidentiary Hearing, to conduct settlement discussions and narrowing of all procedural and substantive issues in this case.
4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution/company or business/medical or health care provider/employer possessing any relevant information.

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IT IS FURTHER ORDERED that the failure of counsel and/or either party to appear at the time of hearing, or to timely present the Joint Pre-Hearing Statement in proper form shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 70(D), A.R.F.L.P. and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

NOTICE: You may request conclusions of fact and law on the following issues, if contested: child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the Court before the trial or evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the Court will make conclusions of fact and law as part of the final decision. If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings must also be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

Information regarding trial procedure for parties not represented by counsel:

The party that filed the initial pleading resulting in the trial/evidentiary hearing being set will present his/her case first. The petitioning party may present his/her own testimony, that is, speak directly to the Court, and/or call witnesses, including the opposing party.

The procedure for questioning a witness is as follows:

1. **Direct Examination:** The petitioning party asks the witness questions, or acts as a witness and provides testimony directly to the Court.
2. **Cross-Examination:** The opposing party may ask the witness questions.
3. **Re-Direct Examination:** The petitioning party may ask the witness follow-up questions but may not raise any new issues with the witness at this point.

When a party calls a witness, the party will be allowed to ask the witness one question at a time that can be answered yes or no. This is not the time for the party to provide his/her own testimony. The party will need to make a mental or written note of the answers the witness provided that he/she does not agree with, and the party will be given an opportunity to provide his/her own testimony after the witness is done testifying. The party will not be allowed to ask a witness a question and immediately thereafter provide commentary. The parties are therefore advised to bring a pen and paper to all hearings.

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After the petitioning party presents his/her case, the opposing party will be allowed to present his/her case in the same manner.

Information regarding exhibits for parties not represented by counsel:

You will need to tell the Court during the hearing that you have exhibit 1, for example. You will need to explain to the Court the relevance of exhibit 1. You will then need to say to the Court, "I offer exhibit 1 into evidence". The other party will likely be given an opportunity to make a legal objection to the entry of the exhibit into evidence. If no objection is made, or if the objection is overruled by the Court, the exhibit will come into evidence. (If an objection is sustained, the exhibit will not come into evidence.) You must follow this procedure for every exhibit that you wish the Court to see. The Court will only review exhibits that have been received in evidence.

IT IS FURTHER ORDERED as follows:

1. Any and all exhibits shall be delivered to this Division at least five (5) business days prior to the hearing. Exhibits shall not be filed at the Clerk of Court filing counter.
2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the Trial. Failure to clearly indicate which party is presenting the exhibits may result in the exhibits being marked incorrectly.
3. Each exhibit shall be stapled if it contains more than one page and shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit. Failure to clearly separate each exhibit may result in the exhibits being marked differently than counsel and/or the parties intended, such as multiple exhibits being marked as one exhibit.
4. Exhibits will be marked in numerical order, most likely in the order received. The parties will receive an exhibit worksheet at the time of hearing which will be the master list.
5. Each party shall provide the adverse party with a separate copy of all exhibits. Each party should keep a copy of the exhibits for themselves as exhibits turned into the Court are kept by the Court. Copies of exhibits may be obtained from the Exhibits Department at the Customer Service Center after conclusion of the hearing. (Customer Service Center: 602-506-3360)

Counsel and/or the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, A.R.F.L.P.

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WARNING: Failure of counsel and/or either party to appear at the time of hearing, shall in the absence of good cause shown result in the imposition of any and all available sanctions pursuant to Rule 70(D), A.R.F.L.P. and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party. The Court may issue a warrant for the arrest of the non-appearing party. If both parties fail to appear, the entire case, or pending pleadings, may be dismissed without further notice to either party.

10:10 a.m. Matter concludes.

IT IS FURTHER ORDERED signing this minute entry as a formal order of the Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

January 14, 2014

/ s / *Michael W. Kemp*

DATE

HONORABLE MICHAEL W. KEMP
SUPERIOR COURT JUDGE

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.